

No. 9/5/84-Lab/8241.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workmen and the management of M/s Om Weaving Factory, 41/4, Bahalgarh Road, Sonapat.

BEFORE SHRI B.P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 67 of 1982

Between

SHRI PARSU RAM YADAV, WORKMAN AND THE MANAGEMENT OF M/S OM WEAVING FACTORY, 41/4, BAHALGARH ROAD, SONEPAT

Present :—

Shri Bahadur Yadav, A.R. for the workman.

Shri R.C. Sharma, A.R. for the management.

#### AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred the following dispute, between the workman Shri Parsu Ram Yadav, and the management of M/s. Om Weaving Factory, 41/4, Bahalgarh Road, Sonapat, to this Court for adjudication,—vide Labour Department Gazette Notification No. ID/SPT/31/82/19733, dated 27th April, 1982:

Whether the termination of service of Shri Parsu Ram Yadav was justified and in order ? If not, to what relief is he entitled ?

2. On receipt of the order of reference, usual notices were issued to the parties. The parties appeared. The claim of the workman is that he was employed with the respondent as a Weaver since 18th September, 1978 on monthly wages of Rs. 30 and that his services were terminated by the respondent unlawfully on 13th May, 1981 without giving any notice or payment of any retrenchment compensation as envisaged under section 25-F of the Industrial Disputes Act, 1947. *Inter alia* it is alleged that the claimant was a active unionist and as such he has been waging a relentless battle for the cause of the workman employed in the textile units at Sonapat and that on 12th December, 1980 a general demand notice was raised by the workmen and given to the respondent without any response.

3. In the reply filed by the respondent, the preliminary pleas projected are that the claimant alongwith other workmen resorted to and actively instigated others to going for stay in tooldown strike on 31st January, 1981 and thereafter the workman went on strike and also indulged in other violent and illegal activities, though the strike was prohibited by the Government of Haryana on 10th March, 1981 but the workman and many others did not report for duty.

4. Replication filed by the workman, he has controverted the various pleas taken by the respondent.

5. On the pleadings of the parties the following issues were settled for decision on 25th October, 1982.

(1) Whether the reference is bad for reason stated in additional plea para 1 and 2 of written statement  
If so, to what effect ?

(2) Whether the termination of service of Shri Parsu Ram Yadav was justified and in order ? If not, to what relief is he entitled ?

6. Both the parties were allowed to adduce their evidence. The management examined MW-1 Shri Prahlad Singh, Head Clerk, office of the Labour-cum-Conciliation Officer, Sonapat and MW-2 one of its proprietor. The workman appeared as his own witness as WW-1.

7. I have heard the learned Authorised Representative of the workman Shri Bahadur Yadav and Shri R.C. Sharma, Authorised Representative of the respondent. My findings on the issues framed are as below :—

8. *Issue No 1*—The learned Authorised Representative of the respondent Shri R. C. Sharma frankly conceded that the present reference cannot be held to be bad in law in view of the preliminary pleas No. 1 and 2 taken by the management. He further agreed that plea No 2 is a mixed question of law and facts and can be more appropriately dispose of while deciding issue No. 2. So, this issue is answered against the management.

9. *Issue No. 2*—To prove this issue the management examined MW-1 Shri Prahalad Singh, Head Clerk, office of the Labour-cum-Conciliation Officer, Sonapat, who produced documents Ex. M-1 to Ex. M-9 from



the record of his office. He also placed on record Ex. M-10,—*vide* which the strike resorted to by the workman was prohibited by the Government of Haryana. MW-2 is Shri Suresh Kumar who stated that the work-force of the respondent resorted to stay-in tool down strike in the month of January 1981 and later on they went on complete strike. The management affixed notices Ex. M-2 to M-8 on the notice board and so Ex. M-11 and further dispatched letters Ex. M-12 and Ex. M-13 to the workers by post. He further stated that the workman failed to report for duty, so, his name was struck off from the rolls of workman from 31st March, 1983. He also stated that, in the premises of M/s. Om Weaving Factory, there are other three being run under the name and style of M/s. Jagditi Textile and M/s. Shankar Textile.

10. The workman appeared as his own witness as WW-1 and stated that he was employed with the respondent as a Weaver since 18th September, 1978 on monthly wages of Rs. 330 and that there was workers union in the respondent, which raised a demand notice with the respondent in the year 1980 and that the strike was prohibited by the Government of Haryana and thereafter he made efforts to resume his duty but he was not allowed to do so.

11. The learned Authorised Representative for the management Shri R.C. Sharma forcefully contended that since the claimant did not resume his duty after prohibition of strike by the Government of Haryana,—*vide* gazette notification, dated 9th March, 1981 the management was justified in terminating the services under the Industrial Employment (Standing Orders) Punjab (Haryana First amendment) Rules, 1952. From the said rule a pointed reference was made to rule 20(1)(k). The said rule contains act and omissions which shall be taken as mis-conduct. One of the clause is that any workman striking work illegally shall be guilty of mis-conduct. The plea of termination of service of the workman 31st March 1981 was taken by the management to prove its point that after the strike was prohibited by the Government of Haryana,—*vide* gazette notification dated 9th March, 1981 the management was justified in terminating the services of the workman on 31st March, 1981 for willful absence and also for mis-conduct as provided in the Standing Orders referred to above. The plea of the management that the workman did not resume his duty after prohibition of strike by the Government of Haryana is a trumped up one, because in case the workman would not have been keen to resume his duty I see no reason for him to raise demand notice on 13th November, 1981, which he did. So, I am inclined to go with the workman that the management deliberately prevented him from resuming his duty after the strike was prohibited by the Government of Haryana and thereby terminated the services in flagrant disregard of the provisions of section 25-F of the Industrial Disputes Act, 1947. So, I find the termination illegal and void abinitio and not sustainable in the eyes of law and as such the same is set aside and the workman is ordered to be reinstated forthwith with continuity of service and with full back wages. This reference is answered and returned accordingly. There is no order as to cost.

B. P. JINDAL,

Dated, the 10th October, 1984.

Presiding Officer  
Labour Court, Rohtak  
Camp Court, Sonapatna

Endst. No. 67/82/3504, dated the 8th November, 1984.

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

B.P. JINDAL,  
Presiding Officer  
Labour Court, Rohtak  
Camp Court, Sonapatna

No. 9/5/84-6-Lab/8242.—In pursuance of the provisions of section 17 of the Industrial Dispute Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workmen and the management of the Executive Engineer Central Stores, H.S.E.B., Rohtak.

BEFORE SHRI B.P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK.

Reference No. 113/81

Between

SHRI AJIT SINGH, WORKMAN AND THE MANAGEMENT OF EXECUTIVE ENGINEER  
CENTRAL STORES, HARYANA STATE ELECTRICITY BOARD, ROHTAK.

Present:—Shri S.S. Gupta, A.R. for the workman.

Shri N.P. Singh, L.O. for the management.



## AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 the Governor of Haryana, referred the following disputes, between the workmen Shri Ajit Singh and the management of M/s. Executive Engineer, Central Stores, Haryana State Electricity Board, Rohtak, to this Court, for adjudication,—vide Labour Department Gazette Notification No. ID/RTK/63/81/45374, dated 14th September, 1981.

Whether the termination of services of Shri Ajit Singh was justified and in order ? If not, to what relief is he entitled ?

2. On receipt of the order of reference usual notices were issued to the parties. The parties appeared. The workman alleged that he was employed as a T/Mate on 14th April, 1978 and later on promoted as Store-Mate but his services were terminated by the respondent on 15th January, 1981 unlawfully without complying with, mandatory provisions of section 25-F of the Industrial Disputes Act, 1947.

3. A reply was filled by the respondent, in which, preliminary pleas projected were that the reference is bad in law, because the applicant has no existing right against the respondent/board. It is admitted that the petitioner was employed as T/Mate on work charge basis as alleged on 14th April, 1978 but his services were terminated in accordance with the clause 2 of the letter of appointment. The petitioner used to misbehave with the senior officials quite often but both smile and frown failed to curb his contumacy and so also the respondent board was justified in terminating the services of the petitioner.

4. In the rejoinder filed by the workman all the pleas taken in the written statement have been controverted.

5. On the pleadings of the parties, the following issue was settled for decision on 2nd February, 1982:—

1. Whether the termination of services of Shri Ajit Singh was justified and in order ? If not, to what relief is he entitled ?

6. The management examined Shri O.P. Arora, Junior Engineer, Suburban Sub-Division as MW-1. He stated that the workman was employed in the month of September, 1980 and his services were dispensed with in the month of January, 1981, because work and conduct of the workman was most unsatisfactory, as he used to misbehave with the seniors. Reports in that behalf are Ex. MW-1/2, MW-1/3, and MW-1/4. The workman appeared as his own witness as WW-1 and made a statement completely in corroboration with the allegations made in the claim statement.

7. The learned authorised Representative of the respondent Shri N. P. Singh forcefully contended that since the work and conduct of the workman was unsatisfactory and he was in the habit of misbehaving with the seniors and further more there was stipulation in the letter of appointment that the service of the workman can be dispensed with without notice in case of mis-conduct, the management was justified in terminating his services,—vide letter copy of which is Ex. MW-1/6. In my opinion, the learned Authorised Representative of the respondent is on fragile footing in so arguing. The workman was employed on 14th April, 1978, though as a work charged T/Mate and he was made regular in the month of September, 1980. So, he has put in more than one year of continuous service with the respondent on the date of termination. Even if, it be believed that the workman had misbehaved with the seniors and his work and conduct was not above board, even then, the management was not justified in terminating his services in the summary manner it did. He could be proceeded against departmentally. A regular chargesheet could be issued to him and he be given an opportunity to defend himself but no such procedure was adopted by the respondent and as such his termination was in flagrant disregard with the provisions of section 25-F of the Industrial Disputes Act 1947 and as such the same cannot be sustained in the eyes of law. So, I find that the termination of services of the workman was illegal and void *ab initio* and as such he is ordered to be reinstated with continuity of service and full back wages. The reference is answered and returned accordingly. There is no order as to cost.

Dated, the 12th October, 1984.

B. P. JINDAL,  
Presiding Officer,  
Labour Court, Rohtak.

Endorsement No. 3514, dated 8th November, 1984.

Forwarded (four copies to the Secretary) to Government Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

B.P. JINDAL,  
Presiding Officer,  
Labour Court, Rohtak.